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Epic Games, Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

Case No. 4:20-cv-05640-YGR-TSH

EPIC GAMES, INC.,  
  
Plaintiff, Counter-defendant,  
  
v.  
  
APPLE INC.,  
  
Defendant, Counterclaimant.

**EPIC GAMES, INC.'S  
ADMINISTRATIVE MOTION TO  
SEAL PORTIONS OF PROPOSED  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

The Honorable Yvonne Gonzalez Rogers

Trial: May 3, 2021

EPIC GAMES, INC.'S ADMINISTRATIVE MOTION TO SEAL PORTIONS OF PROPOSED  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Case No. 4:20-cv-05640-YGR-TSH

1 Pursuant to Federal Rule of Civil Procedure 26(c), Plaintiff Epic Games, Inc. (“Epic”)  
2 moves the Court to file under seal certain portions of its Proposed Findings of Fact and  
3 Conclusions of Law. A public version of Epic’s Proposed Findings of Fact and Conclusions of  
4 Law that redacts such portions is being filed publicly herewith.

5 Pursuant to Civil Local Rule 79-5(e), Epic respectfully moves the Court to seal specific  
6 portions that have been redacted from the public version of its Proposed Findings of Fact and  
7 Conclusions of Law. These portions, which are highlighted in the under seal version of the  
8 document, quote or reproduce discovery materials that Apple or third parties have designated as  
9 HIGHLY CONFIDENTIAL or CONFIDENTIAL pursuant to the Protective Order entered by  
10 the Court, see Dkt. No. 274. The affected parties and the corresponding numbered Finding of  
11 Fact or Conclusion of Law are identified in the Declaration of M. Brent Byars submitted  
12 herewith. As required by Civil Local Rule 79-5(e), Epic is serving Apple and such third parties  
13 with this Motion and its Declaration so that each may submit the required declaration  
14 establishing that the designated material is sealable.

15 Civil Local Rule 79-5 provides that documents, or portions thereof, may be sealed if a  
16 party “establishes that the documents, or portions thereof, are privileged, protectable as a trade  
17 secret or otherwise entitled to protection under the law”. Civ. L.R. 79-5(b). “A strong  
18 presumption of access to judicial records applies fully to dispositive pleadings” and  
19 “‘compelling reasons’ must be shown to seal judicial records attached to a dispositive motion”.  
20 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (citations  
21 omitted). Because “[f]indings of fact and conclusions of law may support a dispositive order”,  
22 compelling reasons are required here. *Washington v. Franciscan Health Sys.*, No. C17-5690,  
23 2019 WL 3494382, at \*2 (W.D. Wash. Mar. 12, 2019).

24 Based on the foregoing, Epic respectfully requests that the Court grant this  
25 Motion.  
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1 Dated: April 7, 2021

CRAVATH, SWAINE & MOORE LLP

2 Christine Varney  
3 Katherine B. Forrest  
4 Gary A. Bornstein  
5 Yonatan Even  
6 Lauren A. Moskowitz  
7 M. Brent Byars

8 Respectfully submitted,

9 By: /s/ M. Brent Byars  
10 M. Brent Byars

11 *Attorneys for Plaintiff Epic Games, Inc.*  
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